



# WISCONSIN REGULATORY DIGEST

## A Publication of the NURSING HOME ADMINISTRATOR EXAMINING BOARD

Volume 10, No. 2

November, 1999

### Dr. Roland M. Hammer

The Nursing Home Administrator Examining Board expressed its sympathy to the family of Dr. Roland Hammer when it learned of his death on June 9, 1999. Dr. Hammer had resigned from board membership on April 24, 1999, due to an illness. Dr. Hammer was appointed by Governor Tommy Thompson to the Board on January 6, 1998, for a term that was due to end on July 1, 2001. The Board held Dr. Hammer in high esteem and regrets that his term was so short. He held a position that must be filled by a physician. Therefore, another physician will be appointed by Governor Thompson to replace him.

### Legislative Update

The Nursing Home Administrator Examining Board has been working hard to obtain legislative support and to have introduced in the Legislature a bill that changes the credentialing requirements for a nursing home administrator license.

## NURSING HOME ADMINISTRATOR EXAMINING BOARD

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Board Chair, Karen Robinson, has recently met with key legislators to explain the need for the legislative changes. The bill draft requires applicants for a nursing home administrator license to have a bachelor's, master's or doctoral degree with a major in health care administration or long term care from an accredited college or university, or a bachelor's degree in any field from an accredited college or university and completion of a specialized course which the examining board considers adequate preparation for nursing home administration. It also would require applicants to obtain 2,000 hours of supervised practical experience.

The Board anticipates the bill draft to be introduced this session. After introduction and assignment of a bill number, the Board will actively solicit your support. The bill would not affect the licensure of currently-licensed nursing home administrators.

### Survey of Licensees

On June 2, 1999, the Board sent a letter to all licensed nursing home administrators who had completed the audio-cassette program of the University of Wisconsin-Extension in Madison.

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The letter requested information about any post-high school education that the administrators had completed before they became licensed. This

information was sought, in order to evaluate the impact of the proposed legislation on future applicants for a license. The response to the survey was outstanding. We would like to thank all those who responded.

Listed below are the responses to the survey:

Number of Letters Sent - 491

Number of Responses Received – 296

Number of Undelivered Letters – 20

Earned a Master's Degree – 96

Earned a Bachelor's Degree – 132

Earned an Associate's Degree – 20

Earned a 3-year Registered Nurse Diploma – 22

Earned a Licensed Practical Nurse Diploma – 5

Earned a Nursing Assistant Diploma – 2

No Degree/Some Education - 19

### **Computer-Based Exams**

In the November, 1998 issue of the Regulatory Digest we informed you that the NAB had decided to administer licensing exams by computer, starting in 2000. The arrangements for a computer exam are very much on track. Also, more recently, the NAB has invited member states to change the administration of the **state** test from a paper-and-pencil exam to a computer administered exam, effective in January, 2000. The Board has accepted this invitation and requested former Board member, Michael O. Kittleson, to attend a meeting in Chicago, held on June 29-30, 1999.

Mr. Kittleson reported to the Board that Wisconsin will retain ownership of its test items and it will control the passing point. He also reported that the candidates will have more choices regarding time and location of the exam, the test results will be provided within 2 weeks rather than 5 weeks, exam items can be reviewed by the Board on a regular basis, and the Wisconsin exam compared very favorably with the exams of the 7 other states that were represented at the meeting.

Our thanks to Mr. Kittleson for attending the meeting!

### **Administrative Rule Changes**

The Board conducted a hearing on August 19, 1999, and subsequently sent its final rule draft to the Senate and Assembly committees that review the Board's rules.

The proposed changes are:

1) To amend s. NHA 4.01 (1) (c), to clarify that an individual who has completed a "program of study" or "specialized courses," as defined in s. NHA 1.02, is required to submit evidence of successful completion of one year of experience in the field of institutional administration; however, an individual who has completed a "regular course of study" is not required to submit evidence of successful completion of one year of experience in the field of institutional administration,

because a regular course of study includes a supervised clinical practicum.

2) To repeal and recreate Section NHA 4.03 (1) and to amend NHA 4.03 (2), (3) and (4) to state that individuals applying for reciprocity must have a bachelor's degree in any field or hold a current certification as a nursing home administrator granted by the American College of Health Care Administrators in order to qualify for a license.

We will include a final draft of the revisions in the next issue of the Regulatory Digest.

### **Provisional Licenses**

The Board has taken note of the fact that the Nursing Home Administrator License Law defines a "provisional license" as a temporary license issued to a provisional nursing home administrator "under this chapter." The problem with this issue is that nowhere in the chapter of the License Law is there any authority for granting provisional licenses to applicants. The Board is now trying to determine whether such authority is needed.

The Board has also taken note of the fact that s. 50.04 (2), Stats., says the following: "No nursing home within the state may operate except under the supervision of an administrator licensed under ch. 456 by the nursing home administrators examining board. If the holder of a nursing home license is unable to secure a new administrator because of the departure of an administrator, such license holder may, upon written notice to the department [Wisconsin Department of Health and Family Services] and upon the showing of a good faith effort to secure a licensed administrator, place the nursing home in the charge of an unlicensed individual subject to conditions and time limitations established by the department with advice from the nursing home administrator examining board. An unlicensed individual who administers a nursing home as authorized under this subsection is not subject to the penalty provided under s. 456.09."

The Board has also noted that it has not opened investigative files, relating to complaints against acting administrators, because the Board has no jurisdiction over such individuals. Therefore, the Board has contacted the Department of Health and Family Services and met with representatives of that department, in order to evaluate the situation and the need for legislative changes. The department informed the board that 54 applications for a variance were reviewed and approved in calendar year 1998, and 8 applications have been approved for the first quarter of 1999.

### **Pattern of Serious Violations**

The 1997 Legislature created an additional reason for which a nursing home administrator's license may be revoked, limited suspended or for which the nursing home administrator may be reprimanded, censured or

otherwise disciplined. That reason is stated as follows: "Proof is submitted that while the licensee was the administrator of a nursing home, that nursing home engaged in conduct that constituted a pattern of serious violations of federal or state statutes, rules or regulations."

So, how is the Board to deal with this provision? It appointed a rules committee, consisting of Karen Robinson, Jerry Schallock and Nancy Harper, and asked the committee to make recommendations for possible clarification of this issue in the administrative rules. The committee's recommendation was scheduled for discussion at the Board meeting on October 14, 1999. The Board will continue to review this matter and will provide more information in the next issue of the Regulatory Digest.

### **Division of Enforcement**

A critically important component of the role played by the Department of Regulation and Licensing (DORL) in overseeing professions subject to licensure and regulation is the Division of Enforcement (DOE), headed by Administrator Jack Temby.

The DOE is a large division comprised of attorneys, investigators and support staff. Their primary mission is to conduct investigations of complaints received by the department concerning the conduct of persons holding professional credentials or licenses issued by the department. In the most recently-completed biennium (1995-97) more than 4,400 complaints were received and processed by the division. When appropriate, complaints are resolved through mediation. However, if it appears there has been a violation of the laws enforced by the boards or department, formal disciplinary action may be commenced against the credential holder involved.

There are four distinct phases of the case handling process. They are as follows:

Intake Stage: This is the first stage in the case handling process. Cases are screened by screening panels to determine if an investigation is warranted. Cases that do not warrant investigation are quickly closed. Cases that appear to have merit are identified for investigative action.

Investigation Stage: This is the next stage in the case handling process. Investigative staff gather necessary evidence and make contacts with witnesses as needed. The results of the investigation are discussed with a case advisor and a department attorney. Cases that do not warrant professional discipline are closed. Cases

with violations proceed to the next stage for legal action.

Legal Action Stage: In this stage, department prosecuting attorneys, in conjunction with case advisors, review the results of the investigation and pursue disciplinary action when appropriate. Cases may be resolved by means of stipulated agreements, informal settlement conferences or letters of concern.

Hearing Stage: This is the last stage in the case handling process. This is a formal legal process. The department attorney litigates the case before an administrative law judge. The law judge makes a proposed decision which is reviewed by the licensing board. If a violation is found, discipline may be imposed. Disciplinary alternatives include a reprimand, limitation, suspension and revocation.

To file a complaint, you may contact the Division of Enforcement by calling (608) 266-7482 or (608) 266-3736, or write the Department of Regulation and Licensing, Division of Enforcement, P.O. Box 8935, Madison, WI 53708-8935.

### **Complaint Statistics**

The Board received 17 complaints against licensed nursing home administrators from January 1, 1999 until August 9, 1999. Eleven complaints were closed after screening, 6 were closed after investigation and 2 were closed as part of disciplinary actions.

The prosecutor for most nursing home administrator cases is James Polewski. The investigator for most cases is Celina Kobs. Other prosecutors and investigators would handle cases, if there were allegations of alcohol or drug abuse or allegations of sexual misconduct.

### **A Sampling of Complaints**

A complainant alleged that a licensee left the facility without anyone in charge. The complainant also alleged that the complainant did not know whom to contact if anything should go wrong, as no clear policy for contacts existed and no notification of delegation of duties by the administrator was made when she was to be out of the facility. The investigator contacted various persons and made an unannounced visit to the facility. She confirmed that a memo had been circulated to all staff, instructing them that one of the administrators would be out of the office for the week and that they should contact their department heads or another member of the administrative team with questions. She also received a copy of a complete policy guide. Board Action: Close the case, due to insufficient evidence that a violation occurred.

Department of Regulation and Licensing  
Nursing Home Administrator Examining Board  
P.O. Box 8935  
Madison, WI 53708-8935

RETURN SERVICE REQUESTED

## **REGULATORY DIGEST**

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### Telephone Directory

The Division of Business Licensure & Regulation has a menu telephone system which is designed to more efficiently direct the caller to the appropriate section. The telephone number for staff is:

**(608) 266-5511**

After dialing this number you are asked to press various menu choices. For the following requests, please press numbers as noted:

<b>Application Forms</b>	<b>Press 11</b>
<b>Complaints Against Licensees</b>	<b>Press 12</b>
<b>Whether a Person is Licensed</b>	<b>Press 442</b>
<b>Application Processing &amp; Requirements</b>	<b>Press 42</b>
<b>FAX number 608-267-3816</b>	

### Verifications

**Requests for verifications to other states must be in writing.** The cost is \$10. Please make out check or money order to the Department of Regulation and Licensing.

### Dates to Remember

**Exams:** January 13, April 13 and July 13, 2000

**Board Meetings:** December 16, 1999; February 17, April 20, June 15, 2000. All meetings are held at 1400 E. Washington Ave., Madison, WI, and are open to the public and subject to cancellation without notice. Please call to confirm dates.

### Visit the Department's Web Site

<http://badger.state.wi.us/agencies/drl/>

Send comments to [dorl@drl.state.wi.us](mailto:dorl@drl.state.wi.us)

### Wisconsin Statutes and Code

Copies of the Nursing Home Administrator Examining Board's Statutes and Administrative Codes can be ordered from the Department. Include your name,

address, county and a check payable to the Department of Regulation and Licensing in the amount of \$5.28. The latest edition is dated July 1998.

### Change of Name or Address?

Please photocopy the mailing label of this digest, make changes in name or address, and return it to the Department. Confirmation of changes are not automatically provided.

**WIS. STATS. S. 440.11 ALLOWS FOR A \$50 PENALTY TO BE IMPOSED WHEN CHANGES ARE NOT REPORTED WITHIN 30 DAYS.**

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